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International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

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Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
Twenty-sixth session

Summary record (partial)* of the 344th meeting
Held at the Palais Wilson, Geneva, on Tuesday, 4 April 2017, at 10 a.m.

Chair: Mr. Brillantes

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 73 of the Convention (*continued*)

Initial report of Bangladesh (*continued*) (CMW/C/BGD/1; CMW/C/BGD/Q/1 and Add.1)

1. *At the invitation of the Chair, the delegation of Bangladesh took places at the Committee table.*

2. **Mr. Ahmed** (Bangladesh), replying to questions raised at the previous meeting, said that recruitment agencies were subject to strict regulation. A recruitment agency's failure to comply with the relevant regulations would render it liable to prosecution. In 2015 and 2016, some 20 licences had been revoked and 10 individuals had been prosecuted. When a recruitment agency was found to have been at fault, it was required to bear the cost of repatriation.

3. **Mr. Reza** (Bangladesh) said that 1,037 agents licensed to recruit migrant workers were currently active in Bangladesh. Furthermore, there was a State-run company, Bangladesh Overseas Employment Services Limited, that recruited migrant workers, and the Bureau of Manpower, Employment and Training was authorized by the Government to recruit migrant workers. Under section 9 of the Overseas Employment and Migrants Act of 2013, recruitment agents were required to obtain a licence from the Government. Section 10 of the Act barred persons convicted of certain offences, including offences relating to trafficking in persons and money-laundering, from obtaining the necessary licence. Licences were valid for an initial period of three years and could be renewed, provided that certain conditions were met. Under section 13 of the Act, the Government had the power to cancel or suspend a licence at any time. Section 15 of the Act established the duties of the recruitment agent, namely, to protect the interests of migrant workers; to produce the migrant worker for registration under section 19 of the Act, if necessary, and collect his or her migration clearance; and to employ the migrant worker in the job offered, provide wages and other benefits, ensure good workplace conditions in accordance with the terms and conditions of the employment contract and maintain communication with the employer for those purposes.

4. The Bureau of Manpower, Employment and Training operated a monitoring system and oversaw several committees that regularly conducted monitoring visits. The Vigilance Task Force and mobile courts also conducted monitoring visits. In 2015, standard operating procedures for monitoring the recruitment system for migrant workers had been developed with technical assistance from the International Organization for Migration. There were plans to introduce a new, online monitoring system.

5. With regard to arbitration, the Bureau of Manpower, Employment and Training had a complaint management unit. Victims and their relatives were able to submit complaints online. Once a complaint had been received, the recruitment agent concerned was blocked from the migration management system pending the outcome of the arbitration process. Both parties were summoned before a committee with a view to enabling them to reach an amicable settlement. In cases in which recruitment agents were found to have been at fault, the Bureau recommended that their licences should be revoked or that they should forfeit the money that they had deposited with the Bureau, which would serve as compensation for the victim. Over the previous five years, the Bureau had received 1,412 complaints, 49 million taka (Tk) had been paid and criminal proceedings had been brought in 16 cases. Some victims had submitted complaints directly to the Vigilance Task Force; over the previous five years, it had received 34 complaints.

6. **Mr. Ahmed** (Bangladesh) said that it was a criminal offence to act as a broker or intermediary, and measures had been taken to ensure the prosecution of persons who did so.

7. **Mr. Reza** (Bangladesh) said that, to eliminate the involvement of intermediaries in the recruitment of migrant workers, efforts were being made to ensure that migrant workers were recruited exclusively via the centralized database.

8. **Mr. Ahmed** (Bangladesh) said that female migrant workers with children generally left their children in Bangladesh. Perpetrators of offences against children were prosecuted under the Children's Act of 2013.

9. **Mr. Islam** (Bangladesh) said that the children of migrant workers living abroad were entitled to education and health care.

10. **Mr. Haque** (Bangladesh) said that the Government operated a number of overseas schools for the children of migrant workers. There were nine such schools in Saudi Arabia alone.

11. **Mr. Ahmed** (Bangladesh) said that the 2006 Bangladesh Labour Act, as amended in 2013, prohibited the employment of children aged under 14 years; the age was raised to 18 years in the case of hazardous occupations. The compulsory registration of births pursuant to the Birth and Death Registration Act of 2004 served to strengthen efforts to prevent the employment of children.

12. **Mr. El-Borai** said that he wished to recall that any State party, including a State of origin, could submit communications under articles 76 and 77 of the Convention. It would be helpful to learn whether nationals of Myanmar were subject to a special legal regime under the Constitution or under national legislation, as, if they were not, they would be subject to the provisions of the Convention, and whether the bilateral agreements signed with other States provided for a solution to the problems presented by the *kafalah* system. Lastly, he wished to know whether the technical process by which laws were amended was in line with the Convention.

13. **Mr. Kariyawasam** (Country Rapporteur) said that it was important to ensure that the various systems developed to protect migrant workers were implemented in an effective manner. He would be grateful if the delegation could respond to reports that workers migrating to Singapore were required to pay fees equivalent in value to several multiples of their annual wages. In that connection, he wished to know whether a system had been developed to set a maximum fee for each country of employment and, if it had not, what the delegation made of the idea. The delegation was invited to comment on reports that the fees charged for training courses for Bangladeshi nationals seeking to work in Singapore were four times higher in Bangladesh than in Singapore itself.

14. It would be helpful to learn whether the State party planned to take measures to enable Bangladeshi nationals living abroad to vote in general elections. Further information on the rules governing the transfer of nationality from a Bangladeshi mother to her children would be appreciated, as there was some confusion regarding the situation of children born before 2009. Lastly, he wished to know whether any rules had been established for the process of arbitration between migrant workers and recruitment agencies and, if they had, whether they had been published or whether there were any plans to publish them in the future.

15. **Ms. Dzumhur** (Country Rapporteur) said that she wished to know why the State party had not ratified the 1951 Convention relating to the Status of Refugees and whether it had ratified the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime. It would be helpful if the delegation could provide a specific example to illustrate the procedure that a Bangladeshi national was required to undergo to become a migrant worker. In particular, it would be useful to learn what steps such a person was required to take, what costs he or she was required to bear and whether the education and training courses provided prior to departure differed depending on the prospective country of employment.

16. It would be interesting to know how many recruitment agencies had had their licences revoked, how many complaints had been received regarding their work, what complaint mechanisms were available to migrant workers living abroad and how long it took for complaints submitted through those mechanisms to be dealt with. With regard to the remedies available to migrant workers, she would appreciate more information on the work of mobile courts, any other efforts made to improve the accessibility of the legal system and the registration of children born to registered refugees. Was it possible for non-

Bangladeshi parents to register a child if only one or neither of them was a registered refugee?

17. She would be grateful for information on the number of cases filed up to the end of 2016 under the Overseas Employment and Migrants Act of 2013 and the Prevention and Suppression of Human Trafficking Act of 2012 and for an update on the status of those cases, including information on the obstacles encountered. In the light of the findings of a recent report on migration governance, she wished to know what mechanisms had been introduced to eliminate irregularities and corruption and what measures had been taken to make the public better aware of those mechanisms. Information on the number and content of training courses organized for government officials would be appreciated.

18. **Mr. Ceriani Cernadas** said that, while recruitment fees had been abolished for domestic workers, they remained in place for other categories of migrant workers and were in some cases extremely high. In that connection, he wished to know whether there were any plans to exempt further categories of migrant workers from having to pay recruitment fees and, if so, how far advanced those plans were; what standards had been set to monitor the fees charged by recruitment agencies and to what extent had the rights of migrant workers been taken into account in the development of those standards; what measures had been taken to verify the documentation submitted by recruitment agencies; and whether the online database of recruitment agents could be used to verify the information submitted by individual agents and establish that a particular agent was operating without a licence. He noted that some States paid recruitment fees on behalf of their migrant workers, which could be a solution for Bangladesh, as remittances from migrant workers made a major contribution to the national economy.

19. With regard to access to justice, he would be grateful for more detailed information on any relevant cases involving migrant workers, both those resolved through the courts and those resolved through arbitration. He wished to know whether there had been cases in which the mechanisms in place had resulted in recruitment agencies having their licences revoked or their applications for the renewal of a licence rejected. In addition, it would be helpful to know whether the State party was currently negotiating bilateral agreements relating to the rights of migrant workers with other States, which other States were involved, what time frame had been set for the ratification of those agreements and to what extent civil society and international organizations had been involved in the process.

20. He would welcome both qualitative and quantitative information on Bangladeshi migrant workers held in detention centres in countries of employment, including information on the conditions of their detention, the reasons for their detention or deportation and the specific policies adopted to ensure that they received the appropriate legal and consular assistance.

21. He wished to know what proposals had been made to bring the Foreigners Act of 1946 into line with the Convention and what mechanisms and programmes had been implemented to ensure that returning migrant workers were able to reintegrate. Further information on the provision of education and health care for the children of migrant workers would be appreciated. Did such children experience adverse outcomes? It would be helpful to learn what policies had been implemented to protect the rights of Rohingya persons in Bangladesh, whether any cases of corruption relating to the conduct of the pre-departure procedure had been reported and, if they had, how they had been resolved. Lastly, he wished to know what mechanisms had been implemented to ensure that the family members of a migrant worker who had died overseas — and whose death was attributable to a deprivation of his or her rights — had access to justice and reparation, including claim, inter alia, to any unpaid wages. In addition, statistics on the implementation of those mechanisms would be appreciated.

The meeting was suspended at 11 a.m. and resumed at 11.20 a.m.

22. **Mr. Haque** (Bangladesh) said that the Government was working to reintegrate returning migrant workers. The Expatriate Welfare Bank, for example, had been established to grant loans to returning migrant workers on generous terms. Owing to the experience and expertise that they had acquired, returning migrant workers had a greater chance of securing work overseas again in the future.

23. With regard to the processing of complaints, some 3 million cases were pending in the national judicial system. Over the previous five years, additional judges had been appointed to increase the capacity of the courts. Moreover, alternative dispute resolution mechanisms had been introduced and were expected to be made compulsory with a view to reducing the burden on the courts.

24. All citizens aged over 18 years, including those living overseas, could register to vote. Any citizen of Bangladesh present in the country on the day of an election could cast a vote. Consideration was being given to the possibility of allowing citizens to cast their vote overseas, but it would take time to establish the necessary facilities.

25. A database of nationals of Myanmar present in Bangladesh was being set up with information disaggregated by age, sex and other criteria. The children of refugees were registered in line with the Birth and Death Registration Act of 2004. The 2009 amendment to the Citizenship Act relating to the right of Bangladeshi women to transfer their nationality to their children had a retroactive effect and, as far as he was aware, no cases involving children born before the entry into force of that amendment were pending.

26. With regard to arbitration, he wished to draw attention to the work of the Bangladesh International Arbitration Centre, which had been established with the support of the Government. Although the Centre mainly handled commercial cases, it offered an example of a mechanism by which disputes could be resolved independently of the courts. Persons of limited means and persons belonging to specific vulnerable groups, including those living in rural areas, were entitled to legal aid under the Legal Aid Act of 2000. In that connection, an online legal help desk had been set up and plans were in place to increase the funding made available for the provision of legal aid.

27. Pursuant to the Anti-Corruption Commission Act of 2004, an independent commission had been set up to handle all relevant criminal cases involving corruption. No refugees or undocumented migrants from Myanmar had been taken into custody under the Foreigners Act of 1946 other than those that had committed certain offences.

28. **Mr. Islam** (Bangladesh) said that Bangladeshi migrant workers were both greatly appreciated and respected by the Government. Efforts were made to protect the welfare of their families and their children were given priority in the education system. Any complaints lodged by migrant workers abroad were fully investigated. Work permits issued by the State of employment were systematically verified by the Government. Seeking work abroad was actively encouraged on the grounds that it was economically beneficial to both countries involved. Local migrant workers who earned less than Tk 200,000 per year and Bangladeshis working abroad were exempt from income tax. Local migrant workers who earned over Tk 200,000 per year were subject to progressive tax rates, but the deadlines for payment were fairly flexible.

29. **Mr. Haque** (Bangladesh) said that the provisions of the Convention had been reflected in the Overseas Employment and Migrants Act of 2013 and would continue to be incorporated into national legislation and regulations. Training on issues relating to migration was provided by the Government, in collaboration with civil society organizations, to public officials at all levels and to some professionals in the private sector, including lawyers and judges.

30. Bangladesh was not yet in a position to ratify the other international instruments that had been mentioned, but it was working to increase its compliance with their provisions in preparation for ratification. Progress was being made to that regard under the Vision 2021 strategy and in the light of national development goals, such as the target that Bangladesh would no longer be defined as a middle-income country by 2041.

31. Violations of the Overseas Employment and Migrants Act of 2013 were covered by the Mobile Courts Act of 2009, under which perpetrators were brought to justice promptly without lengthy court proceedings. Media coverage of convictions under that Act had helped to discourage criminal activity.

32. **Mr. Ahmed** (Bangladesh), making reference to paragraphs 75 to 78 of the State party's replies to the list of issues (CMW/C/BGD/Q/1/Add.1), said that various measures had been taken to combat trafficking in persons, including the implementation of a national

action plan by the Ministry of Home Affairs and the establishment of district committees for the prevention and detection of trafficking in persons, which were now fully operational. Legal assistance had been provided to 79 victims of trafficking. A joint task force had been set up with India to improve and accelerate the procedures relating to the identification and repatriation of victims. A memorandum of understanding had been signed with India in June 2015 on bilateral cooperation for the prevention of trafficking in women and children and for the repatriation and reintegration of victims of trafficking. The Border Guard Bangladesh uniformed force planned to train 5,000 guards in border control to combat the smuggling of migrants and human trafficking.

33. Before departing for employment abroad, Bangladeshis were required to pay only US$ 15 to the public treasury and US$ 43 to the migrant workers' welfare fund. Most workers who sought employment in Singapore were skilled and therefore did not face high training costs. In the light of target 10.7 of the Sustainable Development Goals, the Government had drawn up an action plan to reduce migration costs to a maximum of three months' wages by 2030.

34. A total of 2,966 cases had been filed under the Prevention and Suppression of Human Trafficking Act of 2012; 192 of those cases had been resolved, with 30 resulting in convictions. Efforts were being made to raise awareness of the remedies available under that Act.

35. **Mr. Hossain** (Bangladesh) said that Bangladeshi migrant workers could lodge complaints with the labour welfare wing of the Bangladeshi mission in the State of employment. Complaints against recruitment agencies could be filed directly with the Ministry of Labour and Employment or with the Bureau of Manpower, Employment and Training.

36. Most employment contracts between migrant workers and employers stipulated that the cost of repatriation in the event of death should be covered by the employer. In all other cases, the cost was covered by the migrant workers' welfare fund. Compensation in the event of death could be applied for through the labour welfare wing of the relevant Bangladeshi mission, which would bring the case before the competent court in the State of employment. In some cases, significant amounts of compensation had been obtained.

37. Migrant workers could be recruited in a number of ways, including through a private recruitment agency or through Bangladesh Overseas Employment Services Limited. The Ministry of Labour and Employment forwarded any request for workers from a State of employment to the relevant Bangladeshi mission. The mission's labour welfare wing was responsible for examining the request and submitting a report to the Ministry of Labour and Employment, which then recruited workers through its electronic database or by publishing an announcement in the newspaper.

38. After the recruitment process had been completed, the employer obtained visas for the workers and provided copies of all necessary documents to the Ministry of Labour and Employment and the relevant mission. The names and fingerprints of all workers were registered in the Ministry's database. The Ministry issued emigration clearance in the form of a smart card following verification of the visas. The applicable fees were divided between the employer and the recruitment agency. The workers' smart cards were checked at the airport prior to departure. To date, 89 recruitment agencies had been suspended for fraudulent activities, and fines totalling Tk 49 million had been imposed.

39. **Mr. Haque** (Bangladesh) said that efforts to conclude bilateral agreements with States of employment were ongoing. It was not easy to ensure that those agreements reflected the provisions of the Convention because many States of employment were not yet parties to the Convention. So far, 13 agreements of that kind had been signed; there had been no direct reference to the *kafalah* system in those agreements.

40. **Ms. Landázuri de Mora** said that she would like the delegation to comment on reports that undocumented nationals of Myanmar, including children, were frequently subjected to sexual and gender-based violence and to sexual and labour exploitation in the State party and that Indian migrant workers, including children, were subjected to debt

bondage in the brick kiln sector and to forced labour in the tea industry in north-east Bangladesh.

41. **Mr. Haque** (Bangladesh), recalling the history of the tea gardens under British rule, said that the tea industry workers in the north-east of the country were Bangladeshis of Indian descent rather than Indians and therefore could not be considered migrant workers under the terms of the Convention. The Government had not received any reports of ill-treatment concerning Myanmar nationals.

42. **Ms. Landázuri de Mora** said that the Committee had received several reports on those issues and wished to alert the Government to the allegations of abusive practices.

43. **Mr. Ahsan** (Bangladesh) said that, in the light of recent reports published by the Office of the United Nations High Commissioner for Human Rights and the Special Rapporteur on the situation of human rights in Myanmar, a census was being conducted to determine the number of undocumented Myanmar nationals in Bangladesh. Inasmuch as the country was already densely populated and faced resource constraints, the Government was unable to grant an official status to undocumented persons from Myanmar. It was important to distinguish between those persons and refugees who had been registered in camps. They could not be considered migrant workers under the terms of the Convention.

44. **Mr. Kariyawasam**, noting that Bangladesh had become both a State of origin and a State of employment, said that some issues concerning migrant workers in the State party had not been fully addressed. At the same time, the country's rapid socioeconomic development had paved the way for better protection of the rights of migrant workers. The Government was clearly committed to the principles enshrined in the Convention but faced challenges when it came to implementing the Convention on the ground. The Committee would endeavour to make recommendations that would add value to the Government's efforts. He was pleased to hear that Bangladeshi migrant workers were prized by the Government and he welcomed the plan to reduce migration costs to a maximum of three months' wages. By achieving that target, Bangladesh would set an example for other countries around the world.

45. **Ms. Dzumhur** said that, when drawing up policies, the Government should take into account the large number of Bangladeshi migrant workers abroad and the impact of their remittances on the country's economic sustainability. She was concerned by the lack of women on the delegation and wished to emphasize the importance of sending a gender-balanced delegation to demonstrate the country's commitment to gender equality. She welcomed the legislation on migration that had been introduced in recent years and encouraged the Government to ensure that all by-laws were in line with that legislation. Given the cost of supervising recruitment agencies and following up on complaints filed against them, it might be more efficient to nationalize all agencies of that kind.

46. **Mr. Ahsan** (Bangladesh) said that he welcomed the Committee's comments and advice. The Government firmly intended to continue building on the considerable socioeconomic progress that had been made since the country had gained independence. It would endeavour to send a gender-balanced delegation to present the subsequent periodic report. In recognition of the contribution of Bangladeshi migrant workers to the national economy, the Government had declared 18 December as International Migrants Day.

47. **Mr. Islam** (Bangladesh) said that his country was fully committed to improving its implementation of the Convention, based on the Committee's recommendations and in cooperation with the Committee, international organizations, civil society, other States parties and States of employment. The Government planned to increase the transparency and efficiency of the recruitment system, introduce an insurance scheme for migrant workers and improve welfare services for migrant workers and their families in Bangladesh, focusing in particular on health, education and housing. Having already set up many accredited schools for Bangladeshi workers and their families in Saudi Arabia, it was considering establishing a system that would enable migrant workers abroad to build their own houses and setting up a hospital for the families of migrant workers in Bangladesh.

48. **The Chair**, associating himself with the statement made by Mr. Kariyawasam, said that the State party's efforts to protect the rights of migrant workers and to provide

assistance to nationals in overseas employment were exemplary and that its rapid socioeconomic development was commendable. It was laying the groundwork for the future global compact for safe, orderly and regular migration.

49. **Mr. Islam** (Bangladesh) said that he encouraged the Committee to visit Bangladesh to witness the efforts that were being made to implement the Convention. Lastly, it should be noted that there was no discrimination against women in his country; on the contrary, women were treated with great respect.

The discussion covered in the summary record ended at 12.45 p.m.